In the High Court of Judicature at Madras

Dated : 19.08.2006

Corm:

The Honourable Mr.Justice P.JYOTHIMANI

W.P.No.23534 of 2006
and
M.P.Nos.1 & 2 of 2006

S.Murugan .. Petitioner

vs.

1. The Tamil Nadu Khadi & Village Industries Board,
   rep. by its, Chief Executive Officer,
   Kuralagam, Chennai-108.

2. The Assistant Director,
   Khadi & Village Industries,
   Coimbatore. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, calling for the entire records relating to the impugned order of termination of service of the petitioner passed by the first respondent in his proceedings Na.Ka.No.36041/E2(2)/2003, dated 10.07.2006 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.B.Divakaran

O R D E R

Admittedly, as against the impugned order passed by the first respondent namely, the Chief Executive Officer, terminating the petitioner from service, appeal lies to the Board of Tamil Nadu Khadi Village and Industries under Regulation 38.

2. The only grievance of the petitioner is that in the said Board, which is appellate authority, the Chief Executive Officer, who passed the present impugned order is also one of the members and therefore, according to the principles of natural justice, the petitioner should not be permitted to approach the Board which is an appellate authority.

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3. On the other hand, the learned counsel for the respondents would submit that as per the amended rules, the petitioner belongs to 'C' category of employees and the Board being the appellate authority, consists of 7 members with the Honourable Minister as the President.

4. The learned counsel for the respondents would also state that even though it is true that the Chief Executive Officer who passed the present impugned order is also one of the members of the Board and whenever an appeal is being considered by the Board which is an appellate authority, it is natural that the Chief Executive Officer, who has passed the impugned order against which an appeal may be preferred before Tamil Nadu Khadi Village and Industries Board, he may not be permitted to participate in deciding the appeal.

5. In view of the same, I do not think any ground to interfere at this stage by under Article 226 of the Constitution of India, in such circumstances, that an alternative remedy is available even, as per the impugned order.

6. The petitioner is directed to file an appeal within two months as per the impugned order and sufficient days are available for the petitioner to prefer appeal before the appellate authority within the stipulated time.

7. In view of the same, the writ petition is dismissed giving liberty to the petitioner to approach the appellate authority namely the Tamil Nadu Khadi and Village Industries Board and the petitioner on filing such appeal, the appellate authority shall decide the issue in accordance with law. No costs. Consequently, connected M.Ps. are also dismissed.

sgl

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Chief Executive Officer,
The Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai-108.

2. The Assistant Director,
Khadi & Village Industries,
Coimbatore.

1 cc to Mr.C.Prakasam, Advocate, SR.37360
1 cc to Mr.B.Divakaran, Advocate, SR.37181

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dv/29.8.06

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